

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

HILDA L. SOLIS, Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

Case No. 2010 CV 399 RB/DJS

LOCAL LODGE 794, INTERNATIONAL
ASSOCIATION OF MACHINISTS AND
AEROSPACE WORKERS,

Defendant.

STIPULATION AND ORDER OF SETTLEMENT

Plaintiff, Hilda L. Solis, Secretary of Labor (the Secretary), and defendant Local Lodge 794, International Association of Machinists and Aerospace Workers, (Local Lodge 794), by and through their undersigned counsel, hereby stipulate and agree to settlement of this dispute as follows, and respectfully request that the court so order:

1. This action was brought by the Secretary pursuant to Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (as amended), 29 U.S.C. § 401, *et seq.*, (Act or LMRDA), for the purpose of voiding the results of the December 5, 2009 election for the position of President/Directing Business Representative conducted by Local Lodge 794 and requesting a new election under the supervision of the Secretary of Labor.
2. In her complaint the Secretary contends that Local Lodge 794 violated Section 401(e) of the Act, 29 U.S.C. § 481(e), during the conduct of the election, in applying a “working at the trade” requirement which disqualified a candidate for office, even though the individual was actively contesting his termination from employment;

3. Local Lodge 794 does not admit that it violated any of the aforementioned provisions of Title IV in its December 5, 2009 election.
4. The Parties, in settlement of this action, hereby stipulate and agree that the Local Lodge 794 will conduct, under the supervision of the Secretary of Labor, new nominations, if necessary, and a new election for the office of President/Directing Business Representative, to be completed no later than December 31, 2010. _
5. The supervised election shall be conducted in accordance with Title IV of the Act (29 U.S.C. § 481, et seq.) and, insofar as lawful and practicable, in accordance with the Constitution of the International Association of Machinists and Aerospace Workers (IAM) and the Bylaws of Local Lodge 794.
6. All decisions as to the interpretation or application of Title IV of the LMRDA, the IAM Constitution, and Local Lodge 794's Bylaws relating to the supervised election are to be determined by the Secretary and her decision shall be final, subject to challenge in this court. The interpretation consistently placed on a union's constitution by the responsible union official or governing body will be accepted unless the interpretation is clearly unreasonable.
7. The Court shall retain jurisdiction of this action, and after completion of the supervised election plaintiff shall certify to the Court the name of the person so elected, and that such election was conducted in accordance with Title IV of the Act, and insofar as lawful and practicable, in accordance with the provisions of the IAM Constitution and Local Lodge 794's Bylaws. Upon approval of such certification, the Court shall enter a Judgment declaring that such persons have been elected as shown by such certification to serve the remainder of the term that expires on December 31, 2012.

8, Upon approval of the certification, the Court shall enter a Judgment declaring that the persons identified in the certification have been elected, dismissing the complaint with prejudice, and further providing that each party shall bear its own costs, including attorney's fees, and other expenses incurred by the party in connection with any stage of this proceeding.

Respectfully submitted,

TONY WEST
Assistant Attorney General

KENNETH J. GONZALES
United States Attorney

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MANUEL LUCERO
Assistant U.S. Attorney
P.O. Box 607
Albuquerque, New Mexico 87103
505-346-7274
manny.lucero@usdoj.gov

YOUTZ & VALDEZ, P.C

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Shane C. Youtz
Marianne Bowers
900 Gold Avenue S.W.
Albuquerque, NM 87102
(505) 244-1200 – Telephone
(505) 244-9700 – Facsimile

OF COUNSEL:

M. PATRICIA SMITH
Solicitor of Labor

KATHERINE E. BISSELL
Associate Solicitor

CLINTON WOLCOTT
Counsel for Legal Advice

JAMES E. CULP
Regional Solicitor

BRENDA J. STOVALL
Attorney

U.S. Department of Labor
Richard M. Moyed
Attorney
U.S. Department of Labor
Office of the Solicitor
525 S. Griffin Street, Suite 501
Dallas, Texas 75202
Telephone: (972) 850-3149
Fax:(972) 850-3101
Email: moyed.richard@dol.gov